

Part 410 - Compliance with NEPA

Subpart A - Procedures for NRCS Assisted Programs

NM410.1(a)

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NM410.1 Purpose

- (a) This amendment sets forth policy, procedures, and guidelines to be followed by the. Natural Resources Conservation Service (NRCS) in New Mexico in complying with the National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190) and NRCS Regulations for Compliance with NEPA (7 CFR 650) which contains national NRCS policy and procedures.

NM410.3 Policy

- (a) It is policy in New Mexico that environmental values and studies of probable individual and cumulative impacts are given the same consideration throughout the planning and decision-making process as are economics, engineering, and social values.
- (b) Environmental rules and procedures apply to all NRCS assisted programs, including the uninstalled parts of previously prepared and approved plans and projects that were not covered by environmental documents prepared under previous rules for compliance with NEPA.
- (c) Cultural resources will receive consideration throughout the planning, design, and application processes. Refer to GM-420-Social Science, part 401 and New Mexico Amendments for procedures and policy

NM410.4 Definition of Terms

- (a) Environmental Evaluation (EB)
 - (1) The EE is a process, which starts at the beginning of planning and continues through the installation of the conservation action. The evaluation should be based upon experience, familiarity with the site, judgmental opinion, and on-hand references.
 - (2) Evaluations are done for site-specific actions, which will cause changes to natural resources and environmental factors. Evaluations are prepared for individual conservation practices and/or resource management systems (RMS). If a single practice, or a group of practices under an RMS, will be applied to a number of locations on the same operation: and if the impacts are similar, then only one evaluation is required. Each evaluation will record the anticipated effects of the

resource problem continuing without treatment: as well as the short term and long term effects with the proposed conservation action installed.

- (3) Documentation of the evaluations is required. Both positive and negative effects are considered. If a proposed conservation action will result in negative impacts, then alternative planning solutions should receive consideration. Typical conservation actions will have simple and straightforward evaluations, and result in positive impacts. Proposed actions, which are complex, or those, which will cause large or significant change, will require a more comprehensive evaluation.
- (4) It is not intended that an evaluation be prepared for an entire conservation plan, as plans normally include a number of diverse actions to be applied over an extended period of time. Rather, it is intended that the evaluation be started as a mental process when a resource problem is identified and planning is initiated. As on-site studies are conducted and the development of alternatives is refined, evaluation notes may be accumulated. When the conservation action has been fully planned, and all environmental concerns have been resolved, the conservation action is ready for installation. At this time, the evaluation should be documented using the SCS-CPA-52.
- (5) Retain the SCS-CRP-52 in the cooperator's case file. The form is not a document, which is circulated for public review.
- (6) The District Conservationist (DC) will prepare the "Recommendation" on the reverse side of the SCS-CPA-52 by selecting one of the three:
 - i. When the EE indicates the probability of a significant long-term negative impact to any evaluation factor, or if there will be significant public controversy, the DC will initiate an Environmental Assessments (EA). For definition of "significantly" refer to page 410-70, Item 21 of GM190.
 - ii. When the EE indicates that no significant long-term negative impact will occur and policy does not require an EA, planning and installation can proceed.
 - iii. When the EE indicates that a proposed conservation action is in conflict with any environmental policy requirement and efforts to resolve the conflict have failed, the DC will indicate that assistance was terminated.

(b) Environmental Assessments

- (1) An EA is a concise public document, which is prepared by an Interdisciplinary Team (I/T). Assessments will be prepared for all NRCS assisted actions that might lead to significant negative individual or cumulative impacts upon the human environment, as determined during the evaluation process.
- (2) In addition, policy requires an EA for the following:
 - i. RC&D measures and PL-566 projects.

- ii. Land and water resource projects, other than PL-566, for which state and local units of government receive NRCS technical or financial assistance.

Community ditches have been defined as political subdivisions of state government, (Attorney General Opinion — Water laws of New Mexico, 1963 Chapter 75-14-25).

An BA will be prepared for actions on community ditches only when there will be significant long-term negative impacts as determined by an BE prepared by an interdisciplinary team composed of at least the DC and a member of the area engineering staff. When the action will impact a stream channel or a diversion dam, the Assistant State Conservationist for Technical Services (ASTC/TS) will be notified and will advise as to the scope of the evaluation.

- iii. Actions which will result in draining or otherwise altering wetlands. (Biology Technical Note 30) Refer to page 410-39 of the GM-190 for exceptions.
 - iv. Actions which are likely to have significant adverse effects on existing natural values in a base (100-year) floodplain.
 - v. Actions, which will degrade existing water quality on site or would lead to degraded water quality within a designated high priority area of a County 208 Plan.
 - vi. Actions resulting in disturbance or loss of cultural resources which are on or are eligible for the national Register of Historic Places.
 - vii. Action impacting endangered plants or animals or their critical habitats.
 - viii. Actions which would directly or indirectly result in losses of important farmland.
 - ix. Actions where effects on the environment are highly uncertain or involve unique or unknown risks.
 - x. Actions which are likely to be highly controversial.
- (3) When the BA indicates that the selected alternative will result in a major federal action, which will significantly affect the quality of the human environment, the IDT Leader will recommend that the state conservationist initiate an environmental impact statement (BIS).
- (4) When the BA indicates that there will be no significant impacts to the quality of the human environment, a Finding of No Significant Impact (FNSI) will be prepared. The FNSI will be distributed to interested agencies, groups, and individuals.

Notice of FNSI availability is to be published in the Federal Register and in one or more newspapers serving the area of the proposed action. Implementing action is not

to be initiated for 30 days after the notice of availability has been published in the Federal Register.

(c) Environmental Impact Statements

- (1) An BIS is a detailed, written statement required by Section 102 (2)(c) of the NEPA. Accurate scientific analysis will identify environmental consequences and will provide for public scrutiny and review of documents before decisions are made which will significantly affect the human environment.
- (2) An EIS is required for:
 - i. Projects that include stream channel realignment or work to modify channel capacity by deepening or widening, where significant aquatic or wildlife habitat exists.
 - ii. Projects requiring congressional action.
 - iii. Broad federal assistance programs administered by NRCS, when the planning process indicates there may be significant negative cumulative impacts on the human environment.
 - iv. Other major federal actions that are determined after evaluation to have significant adverse impacts on the quality of the human environment. Major federal action is defined in 40 CFR, 1508.18: “National Environmental Policy Act - Regulations, Implementation of Procedural Provisions.” Federal Register Volume 43, No. 230, November 29, 1978.
- (3) The STC is to determine the need for an EIS for each action, program, or regulation. The systematic, interdisciplinary evaluation of data and information will assist the STC in deciding if an action requires the preparation of an EIS.
- (4) Upon the decision to prepare an EIS, and Notices of Intent (NOI) will be prepared and published in the Federal Register, circulated to interested agencies, groups, and individuals, and published in one or more newspapers serving the area of the proposed action.
- (5) Upon completion of an EIS, and Record of Decision (ROD) will be prepared as a concise, written rationale to explain why the proposed action will be recommended or not recommended for action. The ROD will be distributed to all who provided substantive comments on the draft EIS; and a notice of ROD availability will be published in the Federal Register and sent to all who previously received the NOI.

NM410.11 Environmental Documents

Documentation of probable impacts, as determined by the EE process, will be the form SCSCRA-52 EA, or EIS. Public participation and informational responsibilities will be accomplished by holding a scoping meeting, and by providing an NOI, FNSI and ROD.

NM410.12 NRCS Decision Making and Responsibilities

- (a) The State Conservationist is the Responsible Federal Official (RFO) for all aspects for environmental matters in New Mexico. Assignments to staff members are as follows:
- (b) ASTC/TS has overall staff responsibility. In consultation with and by designating duties to other staff members.
 - (1) Keeps state policy current
 - (2) Advises the STC on training needs
 - (3) Provides the Interdisciplinary Team (IIDT) Leader and other resource specialists for the preparation of environmental assessments (EA) and environmental impact statements (EIS).
 - (4) Prepares and files Notices of Intent (NOI), Finding of No Significant Impact (FNSD, and Record of Decision (ROD).
 - (5) Secures NRCS and other agencies' reviews and comments on NRCS draft EIS.
 - (6) Insures adequacy of NRCS draft and final EA and EIS before they are submitted to the STC for signature.
 - (7) Receives and distributes final EIS after they have been reviewed and cleared by the National Technical Center (NTC) and National Office (NO).
 - (8) Secures NRCS reviews and prepares comments on other agency environmental statements.
 - (9) Maintains relations with NTC and NO on overall environmental affairs.
- (c) State Conservation Engineer upon request furnishes engineering, hydrology, irrigation, and geology specialists needed for the preparation of environmental documents.
- (d) Field Team Leaders are responsible for the coordination of field office (FO) involvement; including furnishing staff assistance, to assure compliance with environmental policy and procedures.
- (e) Engineers (State Level) at the beginning of design, contacts the District Conservationist to ascertain any environmental concerns which would have an effect on design alternatives. Reviews environmental documents to determine if design considerations are needed to avoid or reduce identified impacts.
- (f) District Conservationist incorporates environmental planning into all resource management system (RMS). Working through the Field Team Leaders:
 - (1) Requests the formation of an IIDT

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- (2) In cooperation with the IDT Leader, prepares EA's
- (3) Keeps SWCD and other local people informed about NEPA, USDA, and NRCS policy and regulations relating to environmental affairs.
- (4) As requested, reviews and prepares comments on environmental documents prepared by other agencies.
- (5) Reviews environmental evaluations and makes the recommendation for further action on the SCS-CRA-52.